

CARLA B. OAKLEY, State Bar No. 130092
SHARON R. SMITH, State Bar No. 221428
MORGAN, LEWIS & BOCKIUS LLP
1 Market Street, Spear Street Tower
San Francisco, CA 94105
Tel: 415.442.1301
Fax: 415.442.1001
E-mail: coakley@morganlewis.com
E-mail: srsmith@morganlewis.com

Attorneys for Plaintiffs
Rite Aid Corporation and Name Rite, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Rite Aid Corporation, a Delaware
corporation; Name Rite, LLC, a Delaware
corporation,

Plaintiffs,

vs.

Jingle Networks, Inc.,

Defendant.

Case No. 09-CV-1051 (SI)

**EX PARTE MOTION FOR A SECOND
EXTENSION OF CASE MANAGEMENT
CONFERENCE DATE AND RELATED
DEADLINES AND [PROPOSED] ORDER**

DATE: JULY 31, 2009
TIME: 2:30
COURTROOM: 10, 19TH FLOOR

Plaintiffs Rite Aid Corporation and Name Rite, LLC (collectively “Rite Aid”) respectfully request a continuance of the Case Management Conference for one month.

Rite Aid filed the Complaint on March 10, 2009. Rite Aid and defendant Jingle Networks, Inc. (“JNI”) thereafter reached an agreement on the general terms for settlement and actively have been working to finalize a formal settlement agreement. Rite Aid formally served the Summons and Complaint on July 7, 2007, shortly before the deadline for service specified in Federal Rule of Civil Procedure Rule 4(m).

Given that the Complaint was served on July 7, 2009, JNI has not yet made an appearance in this action. For this reason, Rite Aid could not obtain the formal stipulation of JNI for this *Ex Parte* Motion for a Second Extension of the Case Management Conference and Related Deadlines

1 (“Motion”). JNI does, however, consent to and agree with Rite Aid’s request for a one month
 2 continuance of the case management conference and related deadlines so that the parties have
 3 additional time to finalize a settlement agreement. Attached hereto as Exhibit A is a true and
 4 correct copy of an email confirming JNI’s consent to this Motion.

5 This is the second request to continue the case management conference. On April 3,
 6 2009, the Court issued an Order setting the date for the case management conference on June 23,
 7 2009. Rite Aid filed its first *ex parte* motion to continue the case management conference (and
 8 associated dates) because JNI had not been served or made an appearance and the parties were
 9 involved in settlement negotiations. On June 3, 2009, the Court granted the motion and reset the
 10 case management conference for July 31, 2009.

11 Various deadlines are triggered by the date for the case management conference, the first
 12 of which is Friday, July 10, 2009, which is the last day for the required conference under Federal
 13 Rule of Civil Procedure 26(f) and for the filing of a Stipulation to ADR Process or Notice of
 14 Need for ADR Phone Conference. Shortly thereafter, the parties are required to exchange of
 15 initial disclosures and submit a Joint Case Management Conference Statement.

16 Since the parties are actively working to finalize a formal settlement agreement, there is
 17 good cause for the Court to continue the Case Management Conference and to extend the various
 18 dates calculated from the Case Management Conference date. Accordingly, Rite Aid, with the
 19 stipulation of JNI, respectfully requests a continuance of the Case Management Conference for
 20 one month.

21 Dated: July 9, 2009

MORGAN, LEWIS & BOCKIUS LLP

CARLA B. OAKLEY
 SHARON R. SMITH

22
 23
 24
 25 By /s/ Sharon R. Smith
 Attorneys for Plaintiff
 Rite Aid Corporation and Name Rite, LLC
 26
 27

[PROPOSED] ORDER

Having reviewed Rite Aid's *Ex Parte* Motion for a Second Extension of Case Management Conference and Related Deadlines, and good cause appearing

IT IS HEREBY ORDERED that the Case Management Conference is continued until August Sept. 11, 2009, and the dates calculated based on the Case Management Conference date shall be extended accordingly.

IT IS SO ORDERED.

Dated: July ____, 2009



HON. SUSAN ILLSTON
UNITED STATE DISTRICT COURT JUDGE